



THE FLORIDA SENATE

SPECIAL MASTER ON CLAIM BILLS

Location
408 The Capitol

Mailing Address
404 South Monroe Street
Tallahassee, Florida 32399-1100
(850) 487-5237

DATE	COMM	ACTION
12/1/01	SM	Unfavorable
	CA	
	FT	

December 1, 2001

The Honorable John M. McKay
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **SB 48 (2002)** – Senator Charlie Clary
HB 371 – Representative Matthew Meadows
Relief of Nicholas Maracic v. Broward County

SPECIAL MASTER'S FINAL REPORT

THIS IS AN EXCESS JUDGMENT CLAIM FOR \$280,285 OUT OF THE FUNDS OF BROWARD COUNTY TO COMPENSATE NICHOLAS MARACIC FOR INJURIES AND DAMAGES HE SUSTAINED WHEN INJURED BY A COUNTY BUS DRIVEN BY A COUNTY EMPLOYEE.

FINDINGS OF FACT:

On November 28, 1987, Nicholas Maracic was riding his motorcycle in Broward County and was struck by a Broward County bus.

During the week of June 4, 1990, the case went to trial in Broward County, case number 88-31965-12. The jury returned a verdict for Nicholas Maracic in the amount of \$380,285. The county did not appeal the jury verdict. Broward County has paid \$100,000 of the \$380,285 jury verdict pursuant to s. 768.28, F.S.

This matter was set for a Special Master Hearing on November 19, 2001, however, the claimant's attorney notified the Special Master in writing on November 14th that "...we are not prepared to proceed in presenting our case in chief...we were unable to locate any court files in the State archives nor any depositions or trial transcripts."

The undersigned has independently searched the State Archives twice for any record or tapes of the Special Master Hearing in this matter which took place on January 19, 1994, at the Broward Government Center, Fort Lauderdale, Florida.¹ However, I was unable to find any information other than committee vote sheets and the House and Senate Special Master reports.

The undersigned has also received information from the claimant's attorney that the Broward County Courthouse has destroyed the record of the 1990 trial.

As a result of the foregoing, the November 19th hearing is CANCELLED.

CONCLUSIONS OF LAW:

As the claimant's attorney could not present their case in chief, the claim was not reviewed on the merits.

ATTORNEYS FEES:

Not applicable.

RECOMMENDATIONS:

Without determining this case on the merits, based only upon a procedural request of the claimant's attorney of record that their case could not be presented, I recommend that Senate Bill 48 be reported UNFAVORABLY.

¹ The Maracic claim bill has a long procedural history: During the 1992 session, HB 1599 was introduced by Rep. Geller (no Senate companion bill was filed), but was subsequently withdrawn. In 1994, HB 1541 was filed (no companion Senate bill was filed), a hearing was held and a favorable report was issued by the House Special Master. The Senate Special Master also recommended the bill favorably, but the bill died on the Senate Calendar. During the 1995 session, SB 80 and HB 57 were introduced and both the House and Senate Special Master's issued favorable reports; however, the full Senate voted unfavorably on the bill by a vote of 23 to 13. (The undersigned has listened to the Senate floor debate which primarily concerned the claimant's alcohol blood level at the time of the accident. The urine analysis test report showed that Maracic had a blood alcohol level of 0.19 approximately 40 minutes after the accident, but the report was not introduced at trial.) No claim bills relating to Maracic were filed in 1996, 1997, 1998, 1999 or 2000. Last year, SB 80 was introduced, but the bill was reported unfavorably by the Senate Special Master because the claimant's attorney did "...not provide the Special Master with information necessary to review the claim." SB 80 was subsequently withdrawn.

SPECIAL MASTER'S FINAL REPORT – SB 48 (2002)

December 1, 2001

Page 3

Respectfully submitted,

Katherine A. Emrich
Senate Special Master

cc: Senator Charlie Clary
Representative Matthew Meadows
Faye Blanton, Secretary of the Senate
Leonard Schulte, House Special Master